

This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS SECTION 01 OF 03 HANOI 002220

SIPDIS

DEPARTMENT ALSO FOR CA, CA/OCS, CA/OCS/CI, CA/OCS/ACS/EAP,  
CA/OCS/PRI, DEPARTMENT ALSO FOR CA/VO/F/P, EAP/BCLTV, L/CA  
AND L/T  
BANGKOK FOR DHS/DD  
HO CHI MINH CITY FOR CONS AND DHS OIC

E.O. 12958: N/A

TAGS: [CASC](#) [PREL](#) [VM](#)

SUBJECT: Vietnam Adoptions - DCM Meeting With Vu Duc Long

REF: A) Hanoi 2138, B) Hanoi 2159, C) Boswell-Savage email  
(August 7, 2004, subject: RE: Talking Points - DCM call on  
Mr. Long)

1. (U) Summary. On August 9, 2004 Deputy Chief of Mission John Boardman met with Mr. Vu Duc Long of the Department of International Adoptions at the Ministry of Justice to further clarify the content of the diplomatic note ref A. Director Long explained that because adoptions concern fundamental human rights, the Vietnamese system requires that an agreement touching upon it be framed as a treaty. However, due to differences in how the GVN and USG define "treaty", it will be possible to sign a document with the accepted title, if it has "the content of a treaty." To have "the content of a treaty", the GVN insists that such an agreement form new "binding obligations", chiefly the creation of a centralized USG agency to verify Prospective Adoptive Parent (PAP) application dossiers and Adoption Service Provider (ASP) licenses and activities. If the USG cannot provide such centralized oversight, the GVN asks for a central authority to serve as a point of contact to assist with these verifications at the state and local level. When asked to clarify what the GVN is seeking in terms of "humanitarian support", Long sidestepped into an awkward explanation that the ASPs must help support the orphanages from which they adopt. He was unable specify what such support entailed, other than to say that it should be "reasonable", and that ASPs will need to have "good relations" to adopt in Vietnam. Finally, Long confirmed that the adoption of children with special needs, as with applications made by 'friends of Vietnam', could currently be considered on a case-by-case basis. End Summary.

GVN ANTICIPATES ARRIVAL OF A/S HARTY

2. (U) On August 9, 2004 Deputy Chief of Mission John Boardman met with Mr. Vu Duc Long of the Department of International Adoptions at the Ministry of Justice to further clarify the content of the diplomatic note ref A. After DCM Boardman and Director Long reiterated the importance of restarting American adoptions in Vietnam, Long indicated that with hard work from both sides, substantial deliverables may be ready for A/S Harty's visit to Vietnam in October. Long also assumed that A/S Harty would want to meet with other officials, suggesting that he does not see adoptions as being the primary cause of her visit to Vietnam.

THE DEMAND FOR A TREATY

3. (U) Long and the DCM went immediately to the central question of why a treaty is required. Long explained that the Vietnamese system recognizes four categories of international agreements: state-state, government-government, ministry-ministry, and those conferred by the Supreme Court or other agencies. In Vietnam, because adoption concerns the central rights of human beings, it must be legislated at the state level. In the Vietnamese system "treaty" is the proper name for agreements between states.

4. (U) Understanding that the USG has a different understanding of the term treaty and does not intent to sign a document bearing that title, Long agreed that a document with the current title could satisfy the requirement for a treaty if it were signed by a high-level USG official and had "the content of a treaty".

5. (U) When questioned by the DCM on what was meant by "the content of a treaty", Long replied that it must place new binding obligations and rights upon its signatories. The "binding obligations" sought by the GVN seem to be obligations regarding oversight of ASPs and the applications of PAPs. See paras 7 and 8.

16. (U) When pressed further on why Decree 68 mandates a treaty, Long acknowledged that because there had been no central regulation of the adoptions process in Vietnam prior to Decree 68, there had been "problems". To correct these prior deficiencies, Long asserted that Decree 68 raises adoptions to the highest (State) level and requires a central authority to regulate adoptions.

#### GVN WISH TO PREVENT FRAUD THROUGH CENTRAL AUTHORITY OVERSIGHT

-----

17. (U) Long then focused on the importance of being able to verify the lawfulness and authenticity of application dossiers submitted by PAPs, the licensing and activities of ASPs, and the identity and dossiers of orphans. The GVN would like to establish clear responsibilities for these matters, with the USG responsible for verifying PAP application dossiers and ASP licensing, and the GVN responsible for verifying the dossiers of orphans.

18. (U) The DCM replied that the USG could not perform federal oversight of ASPs as licensing of ASPs and adoptions are both governed at the state level in the U.S.. The USG does not have the authority to determine whether or not an ASP could operate in Vietnam. He suggested that the authority to issue or revoke a license to operate lies with the GVN. Long in turn suggested that a federal central authority serve as a point of contact for the GVN so that it could "discuss" the history and lawfulness of a PAPs' dossier or an ASPs' license and activities without needing to refer to each of the 50 states. This request was repeated throughout the meeting. Long also reiterated that in order to be licensed to operate in Vietnam, ASPs must have prior experience in Asia and "good relationships" in Vietnam.

19. The DCM attempted to focus the conversation on the prevention of fraud in the aspects for which the GVN would like to take responsibility. He asked about practices for licensing or revoking the licenses of ASPs. He asked about verification that an orphan is truly an orphan and that there was no exchange of funds. In response to all of these questions, Long made unclear statements that the Vietnamese system would be stronger than the Chinese system and repeatedly turned the questions back to USG oversight over ASPs and PAPs.

#### LEGALIZATION/AUTHENTICATION

-----

110. (U) Following on, Long again raised the GVN desire to eliminate the need for consular legalization of documents. He explained that if the GVN were assured that the ASP was legally licensed and the application dossier was complete and lawful, there would be no need for further 'consular legalization' (meaning authentication) of documents.

#### REQUEST FOR HUMANITARIAN SUPPORT

-----

111. (U) As requested in ref C, DCM then pressed for clarification of what the GVN is seeking in terms of "humanitarian support". Long then launched into an impassioned explanation that if foreign parents wish to adopt healthy children, then the foreign ASPs handling their adoptions must provide support to the local orphanages to ensure the health of the children. He could not name an amount or specify language to include in the document, saying only that the amount should be "reasonable". He did, though, push further to suggest that ASPs will need to have "good relations" with the orphanages if they expect to have children referred to their PAPs, and made a clear link between those "good relations" and the humanitarian support provided.

#### SPECIAL NEEDS CHILDREN

-----

112. (U) Mission did not broach the subject of a pilot program, but did verify that special needs children are currently eligible for adoption. Long said that adoption of special needs children would be reviewed on a case-by-case basis. In a seeming attempt to appear to be accommodating, Long also offered that adoptions applications from diplomats and friends of helpful U.S. Senators would be considered as special cases. Conoff replied firmly that the USG would not encourage such special exceptions to the law.

#### DUAL CITIZENSHIP

-----

113. (U) When raised by the DCM, Long insisted he had no concerns regarding the citizenship of children adopted under

this agreement. He simply stated that Vietnamese children must maintain their citizenship until given the choice at age 18, and that as the USG allows for dual citizenship, the issue was "not a problem".

BURGHARDT